

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 316 of 1998

with

CIVIL APPLICATION NO 6464 OF 1998

with

CIVIL APPLICATION NO 6465 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NANDI SEEDS PRIVATE LIMITED

Versus

NEW NANDI SEEDS CORPORATION

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Appearance:

MR PRANAV G DESAI for Petitioner

MR RP BHATT for MR YJ TRIVEDI for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 28/09/98

ORAL JUDGEMENT

This appeal arises from the impugned order dated 15th June, 1998 concerning the trade mark in question rendered by the learned Assistant Judge Amreli below

application Exh. 5 in Regular Civil Suit No. 2 of 1997. On 31st July, 1998, this Court passed the following order:

"Notice returnable on 20.8.1998. Service of notice waived by Mr. Y.J.Trivedi, learned advocate appearing for the opponents.

Till then, the interim injunction granted by the trial Court will continue so far as the area covered by the State of Gujarat is concerned and so far as the area covered by State of M.P. is concerned, it will continue except in respect of cotton seeds. "

By order dated 9th September, 1998 passed by this Court (Coram : Y.B.Bhatt,J.), this matter was sent back to this Court in view of the joint request made by the learned counsel for both sides for placing this matter before this Court.

Today, Mr. P.G.Desai, learned counsel appearing with Mr. P.K.Jani, learned advocate appearing for the appellant and Mr. R.P.Bhatt, learned senior counsel for Mr. Y.J.Trivedi, learned advocate appearing for the opponents are present before this Court. Having heard the learned counsels for both the sides, I am of the opinion that the interest of justice would be served if following order is passed :

- (1) The trial Court will hear, decide and dispose of the suit as expeditiously as possible, preferably within the period of ten months from the date of receipt of these directions.
- (2) Till the suit is finally heard and disposed of by the trial Court, the interim injunction granted by the trial Court will continue only with regard to the following areas :
  - (i) The State of Gujarat : In respect of products in the brand name of "NANDI" and under the trade mark of "NANDI".
  - (ii) The State of M.P.: The injunction as aforesaid shall continue to operate for all products except the cotton seeds and maize seeds.

By way of further clarification, it may be noted

that the injunction will not operate in respect of cotton seeds and maize seeds.

(iii) In so far as the States of Andhra Pradesh, Karnataka and Maharashtra are concerned, the injunction will not operate. In so far as the other States are concerned, the injunction shall continue to operate.

It is, however, clarified that this order is passed without prejudice to the rights and contentions of the parties and the trial Court shall decide and dispose of the suit in accordance with law without being influenced by this order of this Court.

The aforesaid order is passed pursuant to the statement which has been made by Mr. P.G.Desai, learned counsel appearing for the appellant, without prejudice to the rights and contentions of the appellant for seeking registration of the trade mark in question namely Nandi Brand, under the instructions from his client. It will, therefore, be open for the parties to move the learned trial Judge for appropriate modification as and when such occasion arises. The aforesaid order is passed without prejudice to the rights and contentions of the respondent for seeking appropriate modification of the interim order in case the respondent succeeds in the cancellation proceedings that might be undertaken by the respondents before the concerned authority.

This appeal is accordingly disposed of with no order as to cost.

Since the main Appeal is disposed of today as aforesaid, civil application No. 6464 of 1998 and 6465 of 1998 will not survive. They are, therefore, disposed of accordingly with no order as to cost.

28.9.1998. (M.S.Parikh,J.)

Vyas